Office - Supreme Court, U.S.
FILED
NOV 7 1957
JOHN T. FEY, Clerk

IN THE

Supreme Court of the United States

OCTOBER TERM, 1957

NO. 291

C. S. HELMIG, Petitioner,

v.

ROCKWELL MANUFACTURING COMPANY, a Corporation, and BETHLEHEM STEEL COMPANY, a Corporation, Respondents.

PETITION FOR REHEARING

PAUL GINSBURG,
Counsel for Petitioner

Carlton House
550 Grant Street
Pittsburgh 19, Pa.

IN THE

Supreme Court of the United States

OCTOBER TERM, 1957

NO. 291

C. S. HELMIG, Petitioner,

v.

ROCKWELL MANUFACTURING COMPANY, a Corporation, and BETHLEHEM STEEL COMPANY, a Corporation, Respondents.

PETITION FOR REHEARING

To the Honorable, the Chief Justice of the United States and the Associate Justices of the Supreme Court of the United States:

The petition of C. S. Helmig respectfully represents:

First: On October 14, 1957, this Honorable Court denied the petition for writ of certiorari in the above entitled case. The within petition contains compelling reasons for granting of the writ of certorari, which petitioner believes would have resulted in granting the writ had they previously been submitted for consideration by this Honorable Court.

Second: The petition for certiorari sought review of two decisions by the Supreme Court of Pennsylvania which deprived your petitioner of federal constitutional and civil rights. The one decision, at No. 6 March Term, 1957, was in an assumpsit action for breach of contract; and the other decision, at No. 7 March Term, 1957, was in a trespass action for conspiracy.

Third: In the assumpsit action, the federal constitutional and civil rights of which your petitioner was deprived are (a) his right to compensation for his labors and services rendered in his chosen occupation; (b) his right to his good name, fame and business; and (c) his right to protect the aforesaid rights in court in accordance with the established forms of law and with due process of law. In the trespass action, the federal constitutional and civil rights of which your petitioner was deprived are (a) his right to an opportunity to be heard before judgment in the Court which deprived him of his federal rights, the long standing right to a day in Court; (b) his right to litigate with due process of law to secure compensatory damages to his good name, fame and business, as well as exemplary damages for the conspiratorial deprivation thereof; and (c) his right to his good name, fame and business. Authorities to support the point that the foregoing are federally protected rights appear on pages 13-14 of the petition for certiorari.

Fourth: Petitioner's Reply Brief timely filed herein (September 5, 1957) plainly showed that the respondents' briefs in opposition did not contain any factual or legal opposition whatever to the petition, but merely continued their misrepresentation of this litigation to the Court.

Fifth: The record herein discloses that the respondents perpetrated a fraud upon the trial court, which fraud was the primary, procuring vehicle of the illegal decrees to be reviewed. Respondent Bethlehem offered perjured testimony which was suborned by respondent Rockwell; and that false testimony which is

admittedly irrelevant and immaterial was the sole basis for the deprivations of petitioner's federal rights which followed; and which included the unlawful deprivation of the award to him of a jury verdict against respondent Rockwell in the sum of $177,811.20. It is elementary that this Honorable Court can *sua sponte* cleanse a fraud upon the court.

Sixth: Subsequent to the denial of certiorari herein, to wit, on October 17, 1957, in the course of argument in the (not yet decided) case of *United States of America, Petitioner, v. The Shotwell Manufacturing Company, Harold E. Sullivan, et al., Respondents,* No. 1 October Term, 1957, the Solicitor General of the United States informed this Honorable Court that the respondents therein had perpetrated a fraud upon the trial Court; and moved this Court to remand the case to the trial Court for a Hearing on that issue.

Mr. Justice Black stated from the bench that he had written an Opinion in another case which held that this Court's power to protect itself from a fraud is "inherent"; and Mr. Justice Frankfurter stated from the bench that "when the judicial process has been soiled" by a fraud upon the Court, it may act *sua sponte* to cleanse it.

It is respectfully submitted that if the denial of certiorari herein is attributable to some technical defect in the record on the issue of the fraud upon the Court, then your petitioner respectfully moves this Honorable Court to remand this cause to the Court of Common Pleas of Allegheny County, Pennsylvania, for a Hearing on the issue of the fraud upon the Court, just as the Solicitor General so moved the Court in the Shotwell

Case, *supra;* otherwise, consider this Record in its present form as a sufficient ground for the granting of the instant petition.

Seventh: Within the past few years, this Honorable Court has repeatedly handed down decisions which have upheld federal constitutional and civil rights for Negroes and Subversives. These decisions have been made not only after argument but even without argument, so positive is this Court's policy to protect these important rights. Your petitioner wonders if the recent avalanche of such cases has submerged beyond recognition his plea for the *equal protection* of his federal rights, because he does not belong to either of said groups and so is left to suffer and feel like the forgotten citizen.

Eighth: Since the denial of certiorari herein, to wit, on October 21, 1957, this Honorable Court has reaffirmed its said policy of protecting citizens' federal civil rights by denying certiorari in the (not yet reported) case of *School Board of the City of Newport News, Virginia v. Atkins.* Because it is mandatory that the protection of the federal constitutional and civil rights must be extended equally to *all citizens*, your petitioner respectfully submits that the conflicting denial of certiorari herein is discriminatory, especially and particularly in the face of the aforementioned wholesale grants to others.

Ninth: It is respectfully suggested that the consequence of a decision even technically denying the petitioner's position would necessarily be a conflict with the strong mandate of this Honorable Court upholding the civil rights of individuals as guaranteed by the Constitu-

tion and laws of the United States. Even to the point of dispatching military forces, our federal government has seen fit to enforce this mandate in the recent case of the State of Arkansas. In that case the highest State Administrative Officer, the Governor, was summarily brushed aside to enforce the civil rights of nine individuals. In the Sovereign State of Louisiana, in the case of *Ludley v. Board of Supervisors of L.S.U.*, 150 F. Supp. 900, U. S. District Judge J. Skelly Wright struck down two legislative enactments of the Louisiana Legislature in preventing official discrimination by state law against individuals protected by the said mandate. Thus it has been made crystal clear that the United States will not permit State agencies to officially deprive American citizens of civil rights protected by federal law. Can it be possible by any distortion of logic or by weakness in enforcement that the Supreme Court of the United States would permit State Courts to do that which a Legislature and a Governor are forbidden to do? It is conceivable that should this Court establish precedent therefor herein, a less free and impartial judiciary in a State dominated by prejudice would be afforded a new avenue of contempt for the rights of American citizens resident within its borders.

Tenth: Your petitioner equally with other citizens is entitled to the protection of his federally guaranteed rights—to work, to earn a living, to be paid the compensation for his labors and services rendered, to sue for the protection of said rights with due process of law, and to be heard in advance of Court judgment.

The foregoing rights claimed by petitioner must *a fortiori* be protected and enforced because they

actually are the fundamental rights ultimately sought by Negroes, whose real goal is to secure protection and enforcement equally with white citizens.

Wherefore, your petitioner prays that this Honorable Court grant a rehearing.

PAUL GINSBURG,
Counsel for Petitioner.

Dated: 6 November 1957

CERTIFICATE OF COUNSEL

I hereby certify that the foregoing Petition for Rehearing is presented in good faith and not for delay; and that it is restricted to the grounds specified in paragraph 2 of Rule 58.

PAUL GINSBURG,
Counsel for Petitioner.